

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK

Tracy Cain,

Plaintiff,

vs.

COMPLAINT

21-cv-634

Denis Richard McDonough,
Secretary of Veterans Affairs,

Defendant.

Plaintiff Tracy Cain (“Plaintiff” or “Ms. Cain”) brings the following complaint:

PARTIES

1. The Plaintiff, Tracy Cain, is a natural person with a place of residence 4220 Lucan Road, Liverpool, NY 13090.
2. Defendant Secretary McDonough, Secretary of Veterans Affairs (“Defendant”), is sued in his official capacity as the head of the Department of Veterans Affairs (“VA”) which is an Agency of the United States Government with headquarters in Washington D.C. and offices throughout the United States. The Agency’s office where the acts giving rise to this complaint occurred is located at the City of Syracuse in New York.

JURISDICTION AND VENUE

3. The Court has jurisdiction over this action pursuant to 28 U.S.C. §1331 and as conferred by 42 U.S.C. §1983.

4. Defendants are subject to the jurisdiction of this Court and venue is proper in this District pursuant to 28 U.S.C. § 1391 (b) as the acts and omissions giving rise to the claims in this complaint occurred within the Western District of New York.

EXHAUSTION OF ADMINISTRATIVE REMEDIES

5. Plaintiff has exhausted administrative remedies prerequisite to bringing this claim as follows:
6. Plaintiff filed a charge of discrimination with the Equal Employment Office of the Department of Veterans Affairs.
7. Subsequently, the VA issued Plaintiff a final agency decision, a copy of which is attached as exhibit A.

FACTS

8. The VA, in its final agency decision, found that Plaintiff's supervisor did create an unlawful hostile work environment based on sex
9. The VA further found that, after Plaintiff complained of this hostile work environment, the VA failed to appropriately correct the hostile work environment.
10. A fair recitation of the facts of this case are detailed in Exhibit A, which is incorporated by reference.
11. This final agency decision is an admission of liability on the part of the VA.
12. At this time, the VA has not rendered compensation to Ms. Cain to make her whole for the harms she suffered from this hostile work environment.

13. Ms. Cain therefore brings this claim to seek the damages to which she is entitled.

FIRST CAUSE OF ACTION

Violation of Title VII on the basis of Sex.

14. Plaintiff repeats each and every allegation set forth herein in preceding paragraphs as though fully set forth herein.

15. As a result of Defendants' actions, Ms. Cain experienced loss of income, fear, anxiety, severe humiliation, shame, embarrassment, emotional pain and suffering, loss of savings, and loss of enjoyment of life.

WHEREFORE, Ms. Cain respectfully requests this Court to enter an Order

A. Awarding Ms. Cain past lost wages and benefits in an amount to be determined at trial;

B. Awarding Ms. Cain damages for her pain, suffering, loss of enjoyment of life, humiliation and other injuries in an amount to be determined at trial;

C. Directing Defendants pay all unreimbursed medical costs incurred by Ms. Cain as a result of the stress and anxiety resulting from the discrimination she suffered and the hostile working conditions she endured, including diagnostic analysis, treatment and therapy, and follow up therapy;

D. Defendants pay Ms. Cain the costs of this action, together with reasonable attorneys' fees and disbursements;

E. Ms. Cain to have such other and further relief as this Court deems just and equitable.

DEMAND FOR JURY TRIAL

Pursuant to Rule 38(b) Fed. R. Civ. P., Plaintiff hereby demands a trial by jury for all issues triable of right by a jury in this case.

Dated: May 25, 2021
Buffalo, New York

Respectfully submitted,
Plaintiff Ms. Cain by her Attorneys

THE LAW OFFICE OF LINDY KORN PLLC



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